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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/758,842

01/16/2004

Thomas Nikolaus

04-134

6965

34704

7590

09/21/2006

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EXAMINER

LOPEZ, FRANK D

ART UNIT

PAPER NUMBER

3745

DATE MAILED: 09/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/758,842	NIKOLAUS, THOMAS	
	Examiner	Art Unit	
	F. Daniel Lopez	3745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 31 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 48-65 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 48-65 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 1-16/04 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 31, 2006 has been entered.

Response to Amendment

Applicant's arguments filed July 31, 2006, have been fully considered but they are not deemed to be persuasive.

Applicant's arguments with respect to claims 49-65 have been considered but are deemed to be moot in view of the new grounds of rejection. The new grounds of rejection are necessitated by the rearrangements of the limitations.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the consumer being a pump which delivers water to a higher level reservoir, with a lower level turbine connected to the higher level reservoir, to drive a generator (claim 64 and 65) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for

consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

Claims 48-65 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 48 and 49 line 2-3 "a consumer (15) connected **directly** or indirectly" is confusing, since the claimed pumps indirectly connect the rotor to the consumer. Suggest that "directly or" be deleted.

Claim 48 line 1 "wind power machine...having at least one...rotor element...characterized in that a plurality of wind power machines" is confusing. The preamble should be a broader characterization like a --wind power system-, or should including a plurality of wins power machines, not a single machine. Claim 55 is written similar to claim 48 and should be changed similarly.

Claim 50 line 5 "pumps...supply a plurality of...connectable generators...and/or consumers "is confusing, since claims 48 and 49 claim that the pumps supply a consumer. Suggest that "connectable generators (16)" should be deleted, or claim that the consumers are generators.

Claims 50(49) does not further limit claim 49, since all of the limitation are in claim 49.

If "generators" of claim 50 line 5 is not deleted, then claim 51 line 2 "consumers...are generators" appears to be claimed in claim 50.

In claim 52 line 2 "plurality of generators...and /or consumers...in particular of at least one...pump" is confusing, as to what the consumers are. It would appear that the consumers are motors driven by the fluid from the pumps, not the pumps themselves.

In claim 53 line 2 “at least one pump” and claim 56 line 2 “hydraulic pump” is confusing, since claim 50 claims a plurality of pumps.

Claim 54 does not appear to further limit claim 53.

Throughout the claims “in particular...” (e.g. claim 54 line 3) should be deleted, since it is unclear whether the limitation following “in particular” is being claimed or not.

Claim 60(56(49))) line 2 “a rotatable tower attachment” is confusing, since claim 60 claims “a tower attachment” (line 5). In claim 60 line 4 “thereto” should be --to--.

Claim 62 does not appear to further limit claim 50.

Claim 64 line 2 “consumer...is...a pump” is confusing, since claim 50 claims a plurality of consumers.

Claims not specifically mentioned are indefinite, since they depend from one of the above claims.

Claim Rejections - 35 USC § 102

Claim 48, inasmuch as it is definite, is rejected under 35 U.S.C. § 102(b) as being anticipated by Parkins (see discussion below).

Claim Rejections - 35 USC § 103

Claims 49-59, inasmuch as they are definite, are rejected under 35 U.S.C. § 103 as being unpatentable over Parkins in view of Cros. Parkins discloses a wind power system comprising two or more wind machines (e.g. column 3 line 19-23), each driving a plurality of pumps (22), which are controlled as a function of power output levels (based on rotor speed, see e.g. fig 9); which drives a single generator (50) through a common supply line (51), having a controllable valve (59), and a common return line (52); with a pressure equalization container (46) between the pump and the generator; wherein rotor elements (11) are attached to a pylon attachment (14), which is rotatably attached (e.g. column 4 line 5-10) to a pylon (12); wherein the pumps are attached to the pylon; but does not disclose that the generator includes two or more generators, which are subdivided into different power levels, on a power output specific bases, via a control device, depending on power emitted by the wind machines.

Cros teaches, for a wind power system comprising two or more wind machines (e.g. 1a, 1b, 1c)), each driving a pump (3aa, 3b, 3c), which drives a generator (e.g. 8a); that the generator includes two or more generators (8a, 8b), which are subdivided into different power levels (e.g. column 13 line 52-56), on a power output specific bases, via a control device (268, fig 9), depending on power emitted by the wind machines; and that there is a controllable valve (12) in a line to another output device (9), for the purpose of controlling the output power.

Since Parkins and Cros are both from the same field of endeavor, the purpose disclosed by Cros would have been recognized in the pertinent art of Parkins. It would have been obvious at the time the invention was made to one having ordinary skill in the art to include two or more generators in the wind power system of Parkins, which are subdivided into different power levels, on a power output specific bases, via a control device, depending on power emitted by the wind machines; and to include a controllable valve in a line, to another output device, as taught by Cros, for controlling the output power.

Claims 60-63, inasmuch as they are definite, are rejected under 35 U.S.C. § 103 as being unpatentable over Parkins in view of Cros, as applied to claim 56, and further in view of Bea. Parkins discloses all the elements of claims 60-63; but does not disclose that the pumps are in the rotatable pylon attachment; or that the output line is passed through a coupling so its rotationally decoupled.

Bea teaches, for a wind power system comprising a wind machine, driving a plurality of pump (e.g. 30, 31), which drives a generator (e.g. 8a); wherein rotor elements (38) are attached to a pylon attachment (11), which is rotatably attached (e.g. column 4 line 5-10) to a pylon (14); that the pumps are in the pylon attachment and that the output line is passed through a coupling (73, column 5 line 52-6) so its rotationally decoupled.

Since the locations of the pumps of Parkins and Bea are functionally equivalent in the wind power art, it would have been obvious at the time the invention was made to one having ordinary skill in the art to locate the pumps of Parkins in the rotatable pylon attachment, with the output line passed through a coupling so its rotationally decoupled, as taught by Bea, as a matter of engineering expediency.

Claims 64 and 65, inasmuch as they are definite, are rejected under 35 U.S.C. § 103 as being unpatentable over Parkins in view of Cros, as applied to claim 50, and further in view of DE 3,215,571. Parkins discloses all the elements of claims 60-63; but does not disclose that the consumer is a pump delivering water to a higher reservoir, with the higher reservoir connected to a lower turbine driving a generator.

DE 3,215,571 teaches, for a wind power system comprising a wind machine, driving a plurality of pumps (e.g. 10, 11), which drives a consumer; that the consumer is a pump (3) delivering water to a higher reservoir.

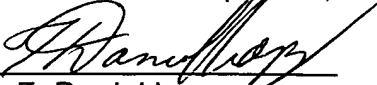
Since the consumers of the modified Parkins and DE 3,215,571 are interchangeable in the wind power art, it would have been obvious at the time the invention was made to one having ordinary skill in the art to make one of the consumers of the modified Parkins a pump which delivers water to a higher reservoir, as taught by DE 3,215,571, as a matter of engineering expediency.

Official notice is taken that it is well known to connect a lower level turbine to a higher level reservoir, to drive a generator and thereby generate electricity. It would have been obvious at the time the invention was made to one having ordinary skill in the art to connect a lower turbine to a higher reservoir of the modified Parkins, to drive a generator and thereby generate electricity.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan Lopez whose telephone number is 571-272-4821. The examiner can normally be reached on Monday-Thursday from 6:15 AM -3:45 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ed Look, can be reached on 571-272-4820. The fax number for this group is (703) 872-9306. Any inquiry of a general nature should be directed to the Help Desk, whose telephone number is 1-800-PTO-9199.


F. Daniel Lopez
Primary Examiner
Art Unit 3745
September 15, 2006